

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DARRYL J. BLANKENSHIP,

Petitioner

v.

C-1-02-481

WANZA JACKSON, WARDEN,

Respondent

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 11) to which the Petitioner objects (doc. no. 12). The Judge concluded that this Court lacks jurisdiction over petitioner's claims and the petitioner's claims lacked merit; therefore, he recommended that the petition be denied.

Upon a *de novo* review of the record, especially in light of petitioner's objections, the Court finds that his contentions have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Judge that petitioner's claims lack merit.

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Accordingly, the Court hereby **ADOPTS AND INCORPORATES BY REFERENCE** the Report and Recommendation of the United States Magistrate Judge (doc. no. 11). Petitioner's Petition for Writ of Habeas Corpus brought pursuant to 8 U.S.C. § 2241 is **DISMISSED** and as this Court lacks jurisdiction. Alternatively, assuming the Court has habeas corpus jurisdiction over this matter, the Petition for Writ of Habeas Corpus is **DENIED**.

A certificate of appealability should not issue because petitioner has failed to make a substantial showing of the denial of a constitutional right that is remediable in this proceeding. **See** 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

Pursuant to 28 U.S.C. §§ 1915(a), this Court certifies that an appeal from this Order would not be taken in good faith and therefore **DENIES** petitioner leave to appeal *in forma pauperis*. **See Fed. R. App. 24(a); Kincade v. Sparkman**, 117 F.3d 949, 952 (1997).

Pursuant to the Report and Recommendation, Petitioner's Motion to Amend the Petition (doc. no. 9) is hereby **GRANTED** Petitioner's Motion to Expand the Record or Alternatively, for Leave to Conduct discovery (doc. no. 7) is **DENIED AS MOOT**.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court